

## Assembly Bill No. 1210

### CHAPTER 502

An act to amend Sections 8226 and 8552.6 of, and to add Sections 8043.2, 10502.7, and 10656 to, the Fish and Game Code, relating to marine resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1999. Filed  
with Secretary of State September 27, 1999.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1210, Strom-Martin. Marine resources: commercial fishing: Bodega Marine Life Refuge.

(1) Under existing law, commercial fishermen are subject to specified landing receipt requirements under specified circumstances.

This bill would impose landing receipt requirements on certain commercial fishermen, as specified, including maintaining an accurate tally sheet of sales and recording the total of daily sales at the completion of sales for that day on a landing receipt as an alternative to making a landing receipt for each individual sale.

(2) Existing law requires a weighmaster, as defined, to obtain a license from the Department of Food and Agriculture prior to performing the duties of a weighmaster, and to comply with other specified requirements regarding weights and measures.

This bill would specify that certain commercial fishermen shall not be considered weighmasters for purposes of those requirements.

(3) Existing law requires any person in possession of a salmon with a missing adipose fin, upon request by an authorized agent or employee of the Department of Fish and Game, to immediately relinquish the head of the salmon to the state for recovery of any coded-wire tag.

This bill would make it unlawful to intentionally conceal, cull, or release into the waters, a salmon with a missing adipose fin that is otherwise legal to possess, thereby imposing a state-mandated local program by creating a new crime. The bill would require a commercial fisherman selling his or her own catch to the ultimate consumer, upon request by an authorized agent or employee of the department, to immediately make available all fish in his or her possession for inspection and sampling.

(4) Under existing law, a herring permit may be issued to 2 individuals if the individuals are married or are partners in a partnership, and meet specified requirements. Existing law provides that a herring permit may be transferred to one of the partners to be

held thereafter in that partner's name only if that partner has not less than 10 experience points as computed pursuant to a specified formula and there has been a death or retirement of the other partner, or other specified circumstances exist.

This bill would provide that in the event of the death of one of the partners, where the partnership existed for longer than 6 months but less than 3 years and the surviving partner does not meet the minimum experience points to qualify for a transfer, the permit may be transferred on an interim basis for a period of not more than 10 years to the surviving partner if an application is submitted to the department within 1 year of the deceased partner's death and the surviving partner participates in the fishery for the purpose of achieving the minimum number of points to be eligible for the permit transfer.

(5) Existing law provides for marine life refuges, established for marine resources protection and scientific study.

This bill would authorize the Director of Fish and Game to appoint the Director of the Bodega Marine Life Refuge. The bill would specify the authority of the marine life refuge director. The bill would make it unlawful to enter the marine life refuge for specified purposes without authorization, or to anchor or moor a vessel in the refuge without authorization, with a specified exception, thereby imposing a state-mandated local program by creating a new crime.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(7) The bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 8043.2 is added to the Fish and Game Code, to read:

8043.2. (a) A commercial fisherman licensed pursuant to Section 8033.5 who sells fish from a vessel directly to the ultimate consumer and who is required pursuant to Section 8043 to make a landing receipt shall make a landing receipt in either of the following ways:

(1) For each individual sale by that fisherman at the time of the sale.

(2) For each day that the fisherman is engaged in one or more sales to the ultimate consumers, the fisherman shall maintain an accurate tally sheet of sales, which shall include complete header and signature box information filled out prior to any sales, and the number of pounds by species of fish sold. The total of the daily sales

shall be recorded at the completion of sales for that day on a landing receipt. A copy of the completed tally sheet shall be attached to the corresponding landing receipt. The original completed tally sheet shall be attached to the fisherman's copy of the corresponding landing receipt and maintained for a period of four years.

(b) A commercial fisherman licensed pursuant to Section 8033.5 who sells directly to the ultimate consumer, or a commercial fisherman who sells or delivers fish that the fisherman has taken to any person who is not licensed under Article 7 (commencing with Section 8030) to conduct the activities of a fish receiver, shall not be considered a weighmaster for purposes of Chapter 7 (commencing with Section 12700) of Division 5 of the Business and Professions Code.

(c) A commercial fisherman selling his or her own catch to the ultimate customer, upon request by an authorized agent or employee of the department, shall immediately make available all fish in possession of the fisherman for inspection and sampling by the agent or employee. Pursuant to Section 8226, the fisherman shall relinquish the head from any sampled salmon with a missing adipose fin.

SEC. 2. Section 8226 of the Fish and Game Code is amended to read:

8226. (a) Notwithstanding any measurement requirements under this code, and to implement the department's salmon tagging program, any person in possession of a salmon with a missing adipose fin, the small, fleshy fin on the back of the fish between the back fin and the tail, upon request by an authorized agent or employee of the department, shall immediately relinquish the head of the salmon to the state, at no charge, for recovery of any coded-wire tag. The head may be removed by the fish owner or, if removed by the official department representative, the head shall be removed in a manner to minimize loss of salmon flesh and the salmon shall immediately be returned to the rightful owner.

(b) It is unlawful to intentionally conceal, cull, or release into the waters, a salmon with a missing adipose fin that it is otherwise legal to possess.

SEC. 3. Section 8552.6 of the Fish and Game Code is amended to read:

8552.6. (a) Notwithstanding Section 8552, a herring permit may be issued to two individuals if the individuals are married to each other and file with the department a certified copy of their certificate of marriage and a declaration under penalty of perjury, or a court order, stating that the permit is community property or if (1) both are engaged in the herring roe fishery either by fishing aboard the vessel or by personally participating in the management, administration, and operation of the partnership's herring fishing business and (2) there is a partnership constituting equal, 50 percent, ownership in a herring fishery operation, including a vessel or

equipment, and that partnership is demonstrated by any two of the following:

(A) A copy of a federal partnership tax return.

(B) A written partnership agreement.

(C) Joint ownership of a fishing vessel used in the herring fishery as demonstrated on federal vessel license documents.

(b) For purposes of this section, a herring permit does not constitute a herring fishing operation. A herring permit may be transferred to one of the partners to be held thereafter in that partner's name only if that partner has not less than 10 points computed pursuant to paragraph (2) of subdivision (a) of Section 8552.8 and there has been a death or retirement of the other partner, a dissolution of partnership, or the partnership is dissolved by a dissolution of marriage or decree of legal separation. A transfer under this section shall be authorized only if proof that the partnership has existed for three or more consecutive years is furnished to the department or a certified copy of a certificate of marriage is on file with the department and the permit is community property as provided in subdivision (a). The transferor of a permit shall not, by reason of the transfer, become ineligible to participate further in the herring fishery or to purchase another permit.

(c) Notwithstanding subdivision (b), in the event of the death of one of the partners holding a herring permit pursuant to this section, where the partnership existed for longer than six months but less than three years and the surviving partner does not have the minimum points pursuant to subdivision (b) to qualify for a permit transfer, the permit may be transferred on an interim basis for a period of not more than 10 years to the surviving partner if an application is submitted to the department within one year of the deceased partner's death and the surviving partner participates in the fishery for the purpose of achieving the minimum number of points to be eligible for a permit transfer pursuant to Section 8552.2. The interim permit shall enable the surviving partner to participate in the herring fishery. At the end of the interim permit period, the surviving partner, upon application to the department, may be issued the permit if he or she has participated in the fishery and gained the minimum number of experience points for a permit.

SEC. 4. Section 10502.7 is added to the Fish and Game Code, to read:

10502.7. (a) The director may appoint the Director of the Bodega Marine Life Refuge.

(b) The Director of the Bodega Marine Life Refuge may authorize any person to enter the Bodega Marine Life Refuge for the purpose of taking fish, invertebrates, or marine plants for scientific study and to take or possess fish, invertebrates, or marine plants for scientific study.

(c) The Director of the Bodega Marine Life Refuge may authorize any person to anchor a vessel in the Bodega Marine Life Refuge for the purpose of scientific study.

SEC. 5. Section 10656 is added to the Fish and Game Code, to read:

10656. (a) Except as expressly provided in this division, it is unlawful to enter the Bodega Marine Life Refuge for the purpose of taking or possessing any fish, marine invertebrate, or marine plant, or to take or possess any fish, marine invertebrate, or marine plant in the Bodega Marine Life Refuge.

(b) Except as permitted by federal law or emergency caused by hazardous weather, it is unlawful to anchor or moor a vessel in the Bodega Marine Life Refuge without authorization by the Director of the Bodega Marine Life Refuge pursuant to Section 10502.7.

(c) This section does not prohibit or restrict navigation in the Bodega Marine Life Refuge pursuant to federal law.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect fish and marine species at the earliest time possible, it is necessary for this act to take effect immediately.

